US Army Corps
of Engineers
GREAT LAKES AND OHIO RIVER DIVISION
LOUISVILLE DISTRICT / HUNTINGTON DISTRICT / PITTSBURGH DISTRICT

Ohio River Main Stem Systems Study (ORMSS)

Integrated Decision Document and Environmental Assessment:

Ohio River Ecosystem Restoration Program

Appendix I:

INSTITUTIONAL PROGRAMS

DRAFT **August 2000**

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Integrated Decision Document and Environmental Assessment :

Ohio River Ecosystem Restoration Program

ILLINOIS, INDIANA, KENTUCKY, OHIO, WEST VIRGINIA, PENNSYLVANIA

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APPENDIX I

I.1 LAWS APPLICAPLE TO ECOSYSTEM RESTORATION PROJECTS

I.1.1 Corps of Engineers Ecosystem Restoration Authorities

Without a specific ecosystem restoration program for the Ohio River there would be some projects contributing to ecosystem restoration goals, but the approach would be piecemeal and very limited in scope. The following paragraphs describe some of the existing authorities and programs that are available at present and in the future.

Presently, several authorities are available to the Corps of Engineers and others that could be used to accomplish some of the ecosystem restoration goals for the Ohio River corridor. However, none of these, alone, or in combination, could fully accomplish the goals developed by the environmental partners. These authorities (discussed below) were designed, in many instances, for different purposes. Many of them are targeted to smaller scale resource issues than those of the Ohio River corridor. Further, the combination of individual projects undertaken through a variety of different authorities does not constitute a comprehensive approach for maintaining and improving an entire ecosystem. Neither do they offer the extensive partnership benefits of an Ohio River Ecosystem Restoration Program.

a). Section 1135 of WRDA 1986. This is the oldest of authorities specific to the Corps of Engineers for ecosystem restoration. Its purpose is to modify Corps projects or operations (including areas impacted by previous Corps projects) to benefit fish and wildlife habitat. Projects implemented under Section 1135 must be feasible, cost effective, and consistent with authorized project purposes. Cost sharing under the program is 75% Federal and 25% Non-federal for implementation and 100% Non-federal for operation and maintenance. Federal funds are limited to $5 million per project, with the entire program authorized to be funded up to $25 million annually.

b). Section 204 of WRDA 1992. Section 204 of WRDA 1992 was established to promote the beneficial use of dredged material. Nation-wide, the Corps of Engineers conducts a large-scale program of maintenance dredging to ensure the continued navigability of the waterway system. The resulting dredged material is frequently disposed in the most economical, yet environmentally acceptable manner. This authority provides a means and encourages use of the

dredged material to produce environmental benefits. The increased costs (i.e., additional costs over those of conventional disposal) associated with using the material for environmental benefits is cost shared with a non-federal partner at 75% Federal and 25% Non-federal for implementation, with 100% Non-federal operation and maintenance. There is no per project dollar limit, and the program is authorized for Federal funding at $15 million annually.

c). Section 206 of WRDA 1996. Section 206 authority was established to encourage aquatic ecosystem restoration. Unlike Sections 1135 and 204, use of this authority does not require a connection to either a previous Corps project or dredging action. Section 206 projects are only applicable to aquatic ecosystem restoration. Cost sharing under the program is 65% Federal and 35% Non-federal for implementation and 100% Non-federal for operation and maintenance. Federal funds are limited to $5 million per project, with the entire program authorized to be funded up to $25 million annually.

d). Specifically Authorized Projects. Ecosystem restoration projects may also be undertaken through specific authorization by law. The process for such authorization is the same as for other large projects including flood damage reduction, navigation, etc. The Everglades Restoration Project in south Florida is an example of a specifically authorized ecosystem restoration project. Cost sharing is established by the authorization bill, generally at 65% Federal and 25% Non-federal for implementation and 100% Non-federal for operation and maintenance. Specific authorization is required for ecosystem restoration projects that exceed project authorized limits or do not meet the criteria for implementation under Sections 1135, 204, or 206.

I.1.2 Other Federal Authorities

Federal agencies other than the Corps of Engineers are also actively pursuing ecosystem restoration through program authorities specific to those agencies. Other Federal agencies involved in ecosystem restoration include the Fish and Wildlife Service, Environmental Protection Agency, Natural Resources Conservation Service, and Tennessee Valley Authority.

Program authorities of the U.S. Fish and Wildlife Service include Partners for Wildlife, the Small Wetland Acquisition Program, and Refuge Management and are described below.

a). North American Bird Conservation Initiative The goal of the North American Bird Conservation Initiative is to facilitate the conservation of Native North American birds by increasing the effectiveness of existing and new initiatives, enhancing coordination, and fostering greater cooperation among the nations and peoples of the continent. Through this initiative, the first joint meeting between regional working groups of the shorebird plan, Partners in Flight, the Atlantic Coast Joint Venture, and the Colonial Waterbird Plan focused on cooperative approaches to bird conservation.

b.) North American Waterfowl Management Plan. The North American Waterfowl

Management Plan provides a framework for waterfowl conservation and management efforts by describing population and habitat goals. The Plan's major premise is that the maintenance of abundant waterfowl populations is dependent on the protection, restoration and management of habitat. The Plan sets goals for waterfowl populations based on species numbers during the decade of the 1970's.

In concert with the Plan, 10 habitat joint ventures were established in the United States and 3 in Canada. Parts of the Ohio River are included within two joint venture areas: the Lower Mississippi River Valley Joint Venture and the Upper Mississippi River Joint Venture. Within the Upper Mississippi River Joint Venture, the New Madrid focus area includes portions of the Ohio River mainstem area in Illinois and Indiana. The Kentucky portion of the Ohio River is included in the Lower Mississippi River Valley Joint Venture. Habitat joint venture actions include protection, restoration, and enhancement of wetland and associated upland habitats. Protection strategies include habitat acquisition, conservation easements, leases, and management agreements with private landowners. Habitat enhancement activities include rest/rotational grazing practices, seasonal flooding of active croplands, and construction of nesting islands and structures for waterfowl and songbirds.

Presently, each state's waterfowl and waterfowl habitat objectives are undergoing review to develop site-specific focus area objectives. A draft of these site-specific objectives should be available in the near future.

c.) The Ohio River Valley Ecosystem (ORVE) Migratory Bird Resource Priority Metaproject was created in an effort to identify areas of importance to species of migratory birds. Target bird species include songbirds that winter in South America or Latin America and breed or inhabit the Ohio River Watershed during the spring and summer. These species are in particular danger due to stress caused by fragmentation and loss of habitat in both their wintering grounds and their spring and summer ranges.

The project will identify areas in the Ohio River watershed that are of particular importance to these species of birds (i.e., grasslands and forest) and present the information in GIS. Targeted bird species of concern within the ORVE include: Bewick's wren; cerulean warbler; golden-winged warbler; wood thrush; Louisiana waterthrush; worm-eating warbler; blackburnian warbler; Henslow's sparrow; eastern wood peewee; loggerhead shrike; hooded warbler; black and white warbler; dickcissel; yellow-billed cuckoo; yellow-throated vireo; field sparrow, whip-poor-will; Acadian flycatcher; black-billed cuckoo; black-throated blue warbler; chestnut-sided warbler; ovenbird; northern parula; Canada warbler; prairie warbler; gray catbird; Bachman's sparrow; summer tanager; great-crested flycatcher; short-eared owl; eastern phoebe; scarlet tanager; cedar waxwing; and northern (Baltimore) oriole.

d.) The U.S. Shorebird Conservation Plan is a collaborative effort between researchers, land managers and education specialists from the U.S. who will cooperate with colleagues from Canada

and Mexico to advance effective conservation of North American shorebird species. The Plan, coordinated by Manomet Center for Conservation Sciences, will focus on three main components: 1) Habitat Management, 2) Research and Monitoring and 3) Education and Outreach. National working groups as well as smaller task groups and regional working groups have been established to address issues in each of these areas.

The Ohio River mainstem falls within two of the shorebird planning regions: Upper Mississippi/Great Lakes and Appalachian Mountains. The shorebird planning units are organized to correspond with the newly created Bird Conservation Regions.

e.) North American Colonial Waterbird Conservation Plan There is an initiative to develop a North American Colonial Waterbird Conservation Plan to advance the conservation of colonial-nesting waterbirds (seabirds, terns, wading birds, gulls) and their habitats in North America. It is a partnership of non-governmental agencies, researchers, private individuals, academics, and federal and state governmental agencies that will develop the Plan over the next two years. The goal is to develop a plan whose implementation will result in sustainable populations, distributions, and habitats of colonial-nesting waterbirds throughout North America, including breeding, migratory, and wintering ranges. The Plan is being developed in concert with other bird conservation planning efforts underway; these efforts include the North American Waterfowl Management Plan, Partners in Flight Bird Conservation Strategy, Important Bird Areas, and Shorebird Conservation Plan. A series of workshops will be held to gather information and to develop different portions of the Plan, including colonial waterbird research and information needs, monitoring needs, management needs, and outreach and information needs.

F). U.S. Environmental Protection Agency The Environmental Protection Agency participates in ecosystem restoration through programs including the Clean Water Action Plan and various types of grants. The Clean Water Action Plan was conceived to build upon the tremendous progress made in cleaning up the nation's waters under the Clean Water Act and is primarily aimed at non-point sources of water pollution. An example of EPA's granting authorities is the 319 program whereby funds are provided to the States. In the case of the 319 program, these funds are also used to remedy various non-point sources of water pollution. While these programs are effective in dealing with many non-point problems throughout the US, their primary goal is to improve water quality. Water quality improvement is certainly an important element of ecosystem restoration, but it only deals with a narrow part of the overall solution of existing problems.

g). U.S Department of Agriculture(USDA) The USDA has a number of programs that also provide valuable benefits to ecosystem health. Included among these programs Conservation Technical Assistance, Environmental Quality Incentives Program, Soil Survey Programs, Wetland Reserve Program, Forestry Incentives Program, Stewardship Incentive Program, and the Conservation Reserve Program to name a few. Two of the programs regarding restoration are described below . A complete list of USDA programs are shown in Appendix H along with a brief description of each. For additional information go to web site http://www.nhq.nrcs.usda.gov/PROGRAMS/cpindex.htm.

The Wetland Reserve Program (WRP) is a voluntary program to restore and protect wetlands on private property. It is an opportunity for landowners to receive financial incentives to enhance wetlands in exchange for retiring marginal agricultural land. Congress authorized WRP under the Food Security Act of 1985, as amended by the 1990 and 1996 Farm Bills. Landowners who choose to participate in WRP may sell a conservation easement or enter into a cost share restoration Agreement with USDA to restore and protect wetlands . A restoration cost share agreement , generally for a minimum of 10 years in duration, would be for reestablishing degraded or lost wetland habitat. USDA pays 75% of the cost of the restoration activity. This does not place an easement on the property. The landowner provides the restoration site without reimbursement. A landowner continues to control access the land and may lease the land- for fishing and hunting and other undeveloped recreational activities.

The Wildlife Habitat Incentives Program(WHIP) provides financial incentives to develop habitat for fish and wildlife on private lands. Participants agree to implement a wildlife habitat development plan and USDA agrees to provide cost-share assistance for the initial implementation of wildlife habitat development practices. USDA and the program participants enter into the a cost share agreement for wildlife habitat development. This agreement generally lasts a minimum of 10 years from the date the contract is signed.

All of these programs are valuable contributors to ecosystem complexes. While the programs play an important role, they do not focus consideration on comprehensive ecosystem restoration program.

I.1.3 Non-Federal Programs Benefiting Ecosystem Restoration

A large number of non-federal agencies and organizations are actively involved in various pursuits that also produce ecosystem benefits. At the state level are departments of environmental management, fish and wildlife agencies, parks departments, forestry departments and others that conduct numerous programs that provide habitat for fish and wildlife, open space, wetlands, etc. Typically, however, their programs are focused on particular aspects of ecosystems according to agency missions and constituents, rather than on ecosystems as a whole. Also, large ecosystem complexes such as the Ohio River corridor are inter jurisdictional in nature, and actions by individual states or agencies may not always be complimentary to other actions.

a). Ohio River Valley Water Sanitation Commission In 1948 , the governors for the states along the Ohio River established an interstate Ohio River Valley Water Sanitation(ORSANCO) to fight the water pollution problems in the Ohio River. As a result of this effort, a valley wide

educational program was started, new state laws were passed, industrial committees set control standards for industrial wastes, and many new pollution control installations were made(ORSANCO 1998) ORSANCO is very interested in this current study and has provided a letter indicating their support for the Ohio River Ecosystem Restoration Program. See Appendix C, Exhibit C-4

Many non-governmental organizations have programs affecting ecosystem health in one way or another. Some excellent examples of these organizations include the Nature Conservancy, National Wildlife Federation, Ducks Unlimited, National Wild Turkey Federation, Sport Fishing Institute and many others. Both individually and collectively, their programs produce important ecosystem benefits. However, often these groups focus their efforts on narrow components of the ecosystem complex according to their charter and/or membership interests. While the benefits provided by these organizations are substantial, several vital components of the overall ecosystem are ignored because there simply is no constituency for them.